

EEOC Obtains \$40,000 in Settlement of ADA Case with Jim Walter Resources

Article By:

U.S. Equal Employment Opportunity Commission

Mine Worker Was Denied Assignment to Area That Would Not Damage His Hearing Aids, Federal Agency Charged

BIRMINGHAM, Ala. - Birmingham-based Jim Walter Resources (JWR), the world's largest producer of Blue Creek coal, will pay \$40,000 and furnish other relief to settle a disability discrimination lawsuit filed by the **U.S. Equal Employment Opportunity Commission (EEOC)**, the agency announced today.

According to the EEOC's suit, while working in Jim Walter's Mine No. 5 near Brookwood, Ala., Rocky Davis, who has profound hearing loss, was continuously assigned to areas of the mine that exposed him to working conditions that would harm his hearing aids. In April 2007, Davis requested an accommodation to be assigned to another location; however, JWR failed to honor his request. Instead, the EEOC said, JWR removed Davis from the mine and would not permit him to return until he presented a full medical release. Upon Davis's return to work, JWR sent him back to the area of the mine that it knew could affect his ability to hear.

Denying an employee a reasonable accommodation violates the **Americans with Disabilities Act (ADA)**. The EEOC filed suit (***EEOC v. Jim Walters Resources, Inc.***, Civil Action No. 7:09-cv-1895) in **U.S. District Court for the Northern District of Alabama** after first attempting to reach a pre-litigation settlement through its conciliation process.

The consent decree settling the suit, entered by U.S. District Judge Virginia E. Hopkins, provides that JWR will pay Davis \$40,000 and prohibits future discrimination. Also, the company is required to train its managers and supervisors regarding an employer's obligations and the rights of employees under the ADA.

"People with hearing loss cannot be excluded from jobs because of unfounded myths and assumptions," said Marsha Rucker, senior trial attorney of the EEOC's Birmingham District Office, which is responsible for EEOC litigation in Alabama, Mississippi, and Northern Florida. "Under the ADA, employers are expected to remove barriers that prevent otherwise qualified individuals with hearing loss from working."

Delner Franklin-Thomas, District Director of the EEOC's Birmingham District Office, added, "Sometimes we need to reinforce, through litigation, that employers are required to make reasonable modifications to policies, practices, and procedures to afford access to individuals with disabilities that is equal to the access afforded to others. We appreciate JWR's willingness to provide relief for Mr. Davis and to ensure that this sort of discrimination does not recur."

The EEOC's litigation efforts were led by Senior Trial Attorney Joann Farnsworth of its Indianapolis District Office and Senior Trial Attorney Marsha Rucker of its Birmingham District Office.

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